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In the
# Supreme Court of the United States

OCTOBER TERM, 1967

No. 154

LUCILLE MILLER,
PETITIONER,

*v.*

STATE OF CALIFORNIA,
RESPONDENT.

## ON PETITION FOR A WRIT OF CERTIORARI TO THE CALIFORNIA DISTRICT COURT OF APPEAL

## PETITIONER'S MEMORANDUM IN RESPONSE TO RESPONDENT'S SUPPLEMENTAL OPPOSING BRIEF

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We are in receipt of Respondent's Supplemental Opposing Brief in the above titled case which asserts on page 3 that: "It therefore appears from the record that the statements made by appellant to the undercover agent preceded both the complaint in the municipal court and the indict-

ment in the superior court." This conclusion is not supported by respondent's own version of the facts. In the preceding paragraph, respondent points out that Peggy Fisk "prepared her report as to her conversations with petitioner on October 12, 1964 and partly on October 14, 1964." Petitioner was arraigned and complained against on October 13, 1964. This chronology strongly suggests that statements were obtained *after* the arraignment and complaint. Surely, the burden ought to be on the State to show—not simply speculate—that no statements were made after that time.* In any event, the State does not challenge petitioner's assertion that the statements were obtained after petitioner was arrested, booked and taken into custody.

Respectfully submitted,

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* Nor is there any record support for respondent's suggestion that Peggy Fisk never asked petitioner any questions or said anything to her which induced any of the statements introduced into evidence. Not only does this suggestion defy common sense; it was also explicitly rejected by the District Court of Appeals which found that Peggy had been "placed in a cell with defendant for the purpose of conversing with defendant in the obvious hope that defendant would make some statement helpful to the prosecution." Petitioner's appendix, p. A-27.